



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2010-0176]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 6, 2010, Nimishillen and Tuscarawas Railway (NTRY) of Canton, OH, has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 223. FRA has assigned the petition Docket Number FRA-2010-0176.

NTRY seeks renewal of relief from the requirements of the railroad safety glazing standards (49 CFR Part 223). This relief was originally granted in 1992 per Docket Number RSGM-91-31. The relief was granted for seven locomotives. NTRY's current petition requests a permanent waiver of compliance for six locomotives (numbered NTRY 1221, 1228, 1285, and LTEX 1002, 1003, and 1004) from the requirements of 49 CFR Part 223, which requires certified glazing in all windows.

These locomotives, equipped to operate as remote controlled locomotives (RCL), are primarily used to move freight cars in the Republic Engineered Products facility. Occasionally, the units leave the facility to move freight cars to separate interchange tracks with the Norfolk Southern or Wheeling & Lake Erie Railway. During these operations, the units do not cross any public road crossings. The maximum speed of these operations is 10 mph. Occupancy of the

locomotive cabs is minimal during shift operations within the industrial facility. All existing glazing on these locomotives is equipped with clear safety glass. NTRY states that replacing the existing glazing with FRA-certified glazing will put a severe hardship and financial burden on the railroad.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at <http://www.regulations.gov> and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on February 3, 2012.

Ron Hynes
Acting Deputy Associate Administrator
for Regulatory and Legislative Operations

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